

SIDNEY SINCLAIR,

PLAINTIFF,

VS

DANIEL SLAY, DOING BUSINESS
AS COLONIAL INN AND X, Y AND
Z, INDIVIDUALS OR CORPORATIONS
WHOSE IDENTITIES ARE UNKNOWN
TO PLAINTIFF AT THIS TIME,
BUT WHOSE TRUE NAMES WILL BE
ADDED BY AMENDMENT WHEN AND
IF ASCERTAINED,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

CASE NO: 9347

AMENDED COMPLAINT

COMES NOW THE PLAINTIFF IN THE ABOVE STYLED CAUSE AND
AMENDS THE BILL OF COMPLAINT HERETOFORE FILED IN THIS CAUSE TO
STRIKE AS A PARTY DEFENDANT "X, Y AND Z, INDIVIDUALS OR CORPORA-
TIONS WHOSE IDENTITIES ARE UNKNOWN TO PLAINTIFF AT THIS TIME,
BUT WHOSE TRUE NAMES WILL BE ADDED BY AMENDMENT WHEN AND IF ASCER-
TAINED, ".

MATRANGA, HESS & SULLIVAN
919 DAUPHIN STREET
MOBILE, ALABAMA, 36604

BAILEY & TAYLOR
FAIRHOPE, ALABAMA, 36532

FILED

JAN 10 1972

By: Ernest M. Bailey
ERNEST M. BAILEY
ATTORNEYS FOR THE PLAINTIFF

EUNICE B. BLACKMON CIRCUIT
CLERK

CERTIFICATE OF SERVICE

I do hereby certify that I have on this JANUARY 7, 1972
served a copy of the foregoing on John Chason
By mailing the same by United States Mail, Properly addressed, and First
Class Postage Prepaid.

BAILEY & TAYLOR

By: Ernest M. Bailey

SIDNEY SINCLAIR,

X

Plaintiff,

X

IN THE CIRCUIT COURT OF

X

vs.

X

BALDWIN COUNTY, ALABAMA

DANIEL SLAY, doing business X
as COLONIAL INN and X, Y

and Z, Individuals or Corpora-X
tions whose identities are

unknown to Plaintiff at this X

time, but whose true names

will be added by amendment X

when and if ascertained,

X

Defendants.

CASE NO. 9347

DEMURRER TO AMENDED COMPLAINT

Comes Daniel Slay, one of the Defendants in the above styled cause, and demurs to the amended Complaint filed in said cause and assigns the following separate and several grounds, viz:

1. That said amended Complaint does not state a cause of action.

2. That said Complaint claims damages of more than one Defendant, but does not allege which Defendant was the owner of the property referred to in such amended Complaint.

3. That said Complaint does not allege which Defendant operated the restaurant referred to.

4. That said Complaint does not allege any duty owing by Daniel Slay to the Plaintiff.

5. For aught that appears from the amended Complaint there was no negligence on the part of the Defendant Daniel Slay which caused the Plaintiff's wife to slip on the step located at the exit of said restaurant.

6. For aught that appears from said amended Complaint the Plaintiff's wife had entered the restaurant by the same door and knew or should have known that there was a strong return spring

in the door and should have taken precautions if any were necessary.

7. That said amended Complaint fails to state whether the door opens inwardly or outwardly at the point where the Plaintiff's wife left the restaurant.

8. The allegation in the amended Complaint that the Defendants failed to use ordinary or reasonable care to keep his premises in a reasonably safe condition does not allege which Defendant is referred to and fails to state with sufficient certainty wherein there was any negligence on the part of the Defendant Daniel Slay.

9. The allegation in the amended Complaint that the Defendants failed to have the premises reasonably free from danger in those areas where the Plaintiff's wife was expected to go does not allege which Defendant failed to take such action or any casual or legal connection between the Defendants referred to in such amended Complaint.

10. The allegation that the Defendants were negligent in failing to warn the Plaintiff's wife of the danger in the premises fails to allege which Defendant failed to warn her and fails to allege with sufficient certainty what the danger consisted of.

11. It affirmatively appears that the Plaintiff's wife was leaving the restaurant at the same door where she entered and that she knew or should have known of the strong spring referred to in the amended Complaint.

CHASON, STONE & CHASON

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 21 day

of Sept 21, 1971

BY: [Signature]
Attorneys for Daniel Slay

FILED

SEP 29 1971

EUNICE B. BLACKMON CIRCUIT CLERK

VOL

68 PAGE 196

SIDNEY SINCLAIR,
Plaintiff

vs.

DANIEL SLAY, et. al.,
Defendants.

* * * * *

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
CASE NO. 9347

* * * * *

DEMURRER TO AMENDED COMPLAINT

* * * * *

SIDNEY SINCLAIR,

PLAINTIFF,

VS

DANIEL SLAY, DOING BUSINESS
AS COLONIAL INN AND X, Y,
AND Z, INDIVIDUALS OR COR-
PORATIONS WHOSE IDENTITIES ARE
UNKNOWN TO PLAINTIFF AT THIS
TIME, BUT WHOSE TRUE NAMES
WILL BE ADDED BY AMENDMENT
WHEN AND IF ASCERTAINED,

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

CASE NO:- 9347

AMENDED COMPLAINT

COMES NOW THE PLAINTIFF IN THE ABOVE STYLED CAUSE AND
AMENDS THE BILL OF COMPLAINT HERETOFORE FILED IN THIS CAUSE TO
READ AS FOLLOWS:

PLAINTIFF CLAIMS OF THE DEFENDANTS THE SUM OF FIFTY
THOUSAND AND NO/100 (\$50,000.00) DOLLARS IN DAMAGES FOR THAT,
HERETOFORE AND ON, TO-WIT; SEPTEMBER 17, 1969 THE PLAINTIFF'S
WIFE ENTERED THE PREMISES OF THE DEFENDANTS AS A CUSTOMER FOR
THE PURPOSE OF DINNING. THE COLONIAL INN RESTAURANT IS LOCATED
IN THE CITY OF BAY MINETTE, COUNTY OF BALDWIN, IN THE STATE OF
ALABAMA, WHEREIN THE DEFENDANTS DID OPERATE A RESTAURANT OPEN TO
THE PUBLIC WHEREIN MEALS WERE SERVED TO THE PUBLIC FOR PROFIT
AND TO WHICH THE PUBLIC GENERALLY WERE INVITED TO COME AND TRADE
OR ON OTHER BUSINESS; THAT PLAINTIFF'S WIFE WAS AN INVITEE OF
DEFENDANTS UPON SAID PREMISES, BEING THERE ON THE OCCASION COM-
PLAINED OF TO PURCHASE A MEAL FROM THE DEFENDANTS, AND WHILE IN
SAID RESTAURANT AND ON SAID PREMISES, WHERE SHE WAS INVITED, SHE
FELL OR WAS CAUSED TO FALL INTO OR OVER A STEP AT THE ENTRANCE OF
SAID RESTAURANT, IN THIS; THE DEFENDANTS' PREMISES HAD A HEAVY
DOOR WITH A STRONG RETURN SPRING THROUGH WHICH CUSTOMERS ENTER
AND EXIT THE RESTAURANT; THAT IMMEDIATELY ON THE OUTSIDE OF SAID
DOOR IT IS NECESSARY FOR A CUSTOMER TO STEP DOWN FROM THE INTERIOR
FLOOR LEVEL; THAT UPON COMPLETION OF THE PLAINTIFF'S WIFE'S MEAL
AT THE AFORESAID TIME AND PLACE, PLAINTIFF'S WIFE THEN PROCEEDED TO
EXIT THE COLONIAL INN RESTAURANT AND UPON MAKING HER EXIT, PLAIN-

TIFF'S WIFE WAS CAUSED TO TRIP ON THE STEP LOCATED IN THE EXIT OF SAID RESTAURANT BY THE STRONG RETURN SPRING LOCATED ON THE HEAVY DOOR TO THE PREMISES STRIKING THE PLAINTIFF'S WIFE IN THE BACK CAUSING HER TO FALL TO THE GROUND. AS A RESULT OF THIS FALL, PLAINTIFF'S WIFE SUFFERED A FRACTURE OF HER LEFT ANKLE AND WAS CAUSED TO WEAR A CAST ON HER LEFT ANKLE FOR A PERIOD IN EXCESS OF ONE (1) MONTH; SHE SUFFERED GREAT MENTAL AND PHYSICAL PAIN AND ANGUISH. AS A PROXIMATE RESULT OF THE WEARING OF THIS CAST, THE PLAINTIFF'S WIFE SUBSEQUENTLY DEVELOPED A CONDITION KNOWN AS PHLEBITIS WHICH CAUSES THE PLAINTIFF'S WIFE'S LEG TO SWELL AND RENDERS HER DISABLED, AND UNABLE TO ATTEND TO HER HOUSEHOLD DUTIES AND TO ATTEND TO THE NEEDS OF HER HUSBAND. PLAINTIFF AVERS THAT ALL OF HIS WIFE'S INJURIES AND DAMAGES WERE CAUSED AS A PROXIMATE RESULT AND CONSEQUENCE OF THE NEGLIGENCE OF THE DEFENDANTS AS FOLLOWS:

THAT THE DEFENDANTS FAILED TO USE ORDINARY OR REASONABLE CARE TO KEEP HIS PREMISES IN A REASONABLY SAFE CONDITION FOR THE CUSTOMERS PATRONIZING THIS ESTABLISHMENT; FURTHER, IN FAILING TO HAVE THE PREMISES REASONABLY FREE FROM DANGER IN THOSE AREAS WHERE THE PLAINTIFF'S WIFE WAS EXPECTED TO GO; THE DEFENDANTS WERE NEGLIGENT IN FAILING TO WARN THE PLAINTIFF'S WIFE OF THE DANGER IN THIS CONDITION WHICH IT KNEW OR SHOULD HAVE KNOWN AND OF WHICH WAS UNKNOWN TO THE PLAINTIFF'S WIFE; THAT THE DEFENDANTS WERE NEGLIGENT IN FAILING TO WARN THE PLAINTIFF'S WIFE OF THE STRONG RETURN SPRING LOCATED IN THE HEAVY DOOR WHERE CUSTOMERS ARE ALLOWED TO ENTER AND EXIT THE RESTAURANT, SAID HEAVY SPRING CAUSING THE DOOR TO RETURN RAPIDLY, A SITUATION READILY FORESEEABLE TO A REASONABLE PERSON THAT IT WOULD INJURE PATRONS OF THE RESTAURANT. PLAINTIFF AVERS THAT AS A DIRECT RESULT OF THE FOREMENTIONED INJURIES SUSTAINED BY HIS WIFE, THE PLAINTIFF WAS CAUSED TO LOSE THE SERVICES, COMPANIONSHIP AND CONSORTIUM OF HIS WIFE WHICH SHE PERFORMED PRIOR TO SUSTAINING THE INJURIES AFORESAID.

WHEREFORE, THE PLAINTIFF CLAIMS DAMAGES IN THE AFORESAID.

MATRANGA, HESS & SULLIVAN
919 DAUPHIN STREET
MOBILE, ALABAMA, 36604

BAILEY & TAYLOR
FAIRHOPE, ALABAMA

By: *Ernest M. Bailey*
ERNEST M. BAILEY
ATTORNEYS FOR THE PLAINTIFF

*Copy delivered to Mr John
Choson 8/29/71
E M Bailey ✓*

FILED

SEP 29 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

SIDNEY SINCLAIR,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
DANIEL SLAY, et al.,	X	AT LAW
Defendants.	X	NO. 9347

DEMURRER

Comes now the Defendant, Daniel Slay, doing business as Colonial Inn, by and through his attorneys of record, and demurs to the Complaint heretofore filed in said cause, separately and severally, and assigns the following separate and several grounds in support thereof, viz:

1. That said Complaint fails to state a cause of action.
2. That said Complaint does not allege any duty owing by the Defendant to the Plaintiff's wife.
3. That said Complaint attempts to set out the quo modo of the negligence of the Defendant but fails to allege any negligence which, under the laws of the State of Alabama, would constitute liability on the part of such Defendant.
4. That said Complaint fails to allege what caused the Plaintiff's wife to trip on a step located directly beneath the exit of said restaurant.
5. That the Complaint fails to allege in what manner the door on the premises struck the Plaintiff's wife in her back.
6. For aught that appears from said Complaint, the premises operated by the Defendant were not dangerous to anyone exercising due care.
7. The allegations as to the cause of the Plaintiff's wife's injuries are but conclusions of the pleader.

8. The allegation in the Complaint that the Defendant failed to use ordinary or reasonable care to keep his premises in a reasonably safe condition is but a conclusion of the pleader and fails to allege facts which, as a matter of law, constitute such negligence.

9. The allegation in the Complaint that the Defendant failed to have the premises reasonably free from danger in those areas where the Plaintiff's wife was expected to go is but a conclusion of the pleader and fails to allege wherein the Defendant failed to keep such premises reasonably free from danger.

10. For aught that appears from said Complaint, the Plaintiff's wife could see the condition of the premises and had she exercised reasonable care for her safety, she would not have been injured.

11. That said Complaint fails to set out what negligent condition existed in the premises which was unknown to the Plaintiff's wife.

12. For aught that appears from the Complaint, the strong return spring in the door did not in anyway contribute to the injury of the Plaintiff's wife.

13. That there is no connection shown between the injuries to the Plaintiff's wife and any alleged defect in the premises owned by the Defendant.

James G. ...
Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 13 day of July, 1970.

Blue ...

FILED

JUL 13 1970

ALICE J. DUCK CLERK
REGISTER

SIDNEY SINCLAIR,

Plaintiff,

vs.

DANIEL SLAY, et al.,

Defendants.

* * * * *

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW NO: 9347

* * * * *

DEMURRER

* * * * *

FILED

JUL 13 1970

ALICE J. CUCKER
REGISTER

CHASON, STONE & CHASON
ATTORNEYS AT LAW
P. O. BOX 120
BAY MINETTE, ALABAMA

SIDNEY SINCLAIR,)	IN THE CIRCUIT COURT OF
Plaintiff,)	BALDWIN COUNTY, ALABAMA
vs.)	
DANIEL SLAY, doing)	
business as COLONIAL)	
INN and X, Y and Z,)	
individuals or)	
corporations whose)	
identities are unknown)	
to plaintiff at this)	
time, but whose true)	
names will be added)	
by amendment when)	
and if ascertained,)	
Defendants.)	CASE NO. <u>9347</u>

Plaintiff claims of the defendants the sum of Fifty Thousand and No/100 (\$50,000.00) Dollars in damages for that, heretofore and on, to-wit: September 17, 1969 the plaintiff's wife entered the premises of the defendants as a customer for the purpose of dinning. The Colonial Inn restaurant is located in the City of Bay Minette, County of Baldwin, in the State of Alabama, wherein the defendants did operate a restaurant open to the public wherein meals were served to the public for profit. Upon completion of the plaintiff's wife's meal at the afore-said time and place, plaintiff's wife then proceeded to exit the Colonial Inn restaurant. Upon her making her exit, plaintiff's wife was caused to trip on a step located directly beneath the exit of said restaurant. At said exit is located a heavy door for the purpose of entering and leaving the premises. When the plaintiff's wife tripped, the heavy door on the premises struck the plaintiff's wife in the back causing her to fall to the ground. As a result of this fall, the plaintiff's wife suffered a fractured left ankle. As a result of said fractured left ankle, plaintiff's wife was caused to wear a cast on her left ankle

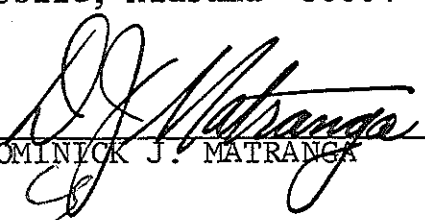
for a period in excess of one (1) month. As a proximate result of the wearing of this cast, the plaintiff's wife subsequently developed a condition known as phlebitis which causes the plaintiff's wife's leg to swell and renders her disabled, and unable to attend to her household duties and to attend to the needs of her husband. Plaintiff avers that all of his wife's injuries and damages were caused as a proximate result and consequence of the negligence of the defendants as follows:

That the defendants failed to use ordinary or reasonable care to keep his premises in a reasonably safe condition for the customers patronizing this establishment; further, in failing to have the premises reasonably free from danger in those areas where the plaintiff's wife was expected to go; the defendants were negligent in failing to warn the plaintiff's wife of the danger in this condition which it knew or should have known and of which was unknown to the plaintiff's wife; that the defendants were negligent in failing to warn the plaintiff's wife of the strong return spring located in the heavy door where customers are allowed to enter and exit the restaurant, said heavy spring causing the door to return rapidly, a situation readily foreseeable to a reasonable person that it would injure patrons of the restaurant. Plaintiff avers that as a direct result of the forementioned injuries sustained by his wife, the plaintiff was caused to lose the services, companionship and consortium of his wife which she performed prior to sustaining the injuries aforesaid.

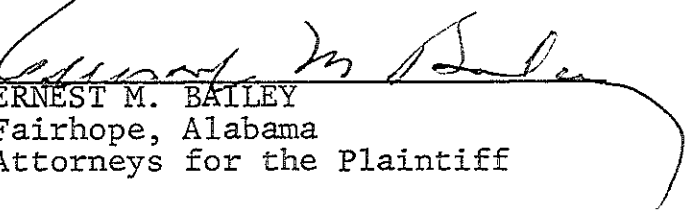
WHEREFORE, the plaintiff claims damages in the sum aforesaid.

MATRANGA, HESS & SULLIVAN
Attorneys for the Plaintiff
919 Dauphin Street
Mobile, Alabama 36604

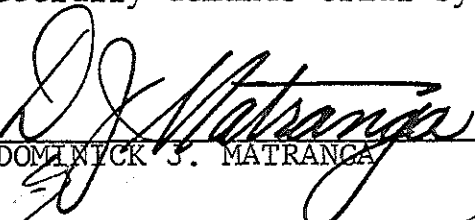
BY


DOMINICK J. MATRANGA

BY


ERNEST M. BAILEY
Fairhope, Alabama
Attorneys for the Plaintiff

Plaintiff respectfully demands trial by jury.


DOMINICK J. MATRANGA


ERNEST M. BAILEY

The defendant Daniel Slay may be served at the Colonial Inn restaurant located in Bay Minette, Alabama

FILED

JUN 22 1970

ALICE J. DUCK CLERK
REGISTER

SUMMONS AND COMPLAINT

MOORE PRINTING COMPANY - BAY MINETTE, ALA.

STATE OF ALABAMA
BALDWIN COUNTY

Circuit Court, Baldwin County

No. 9347

.....TERM, 19.....

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon DANIEL SLAY, ET AL

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed
in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against.....
DANIEL SLAY, ET AL
....., Defendant.....

by
SIDNEY SINCLAIR Plaintiff.....

Witness my hand this 22 day of JUNE 19 70

Alfred Duck Clerk

No. 9347 Page.....

STATE OF ALABAMA

Baldwin County

CIRCUIT COURT

SIDNEY SINCLAIR,

Plaintiffs

DANIEL SLAY, ^{vs.} ET AL

Defendants

SUMMONS AND COMPLAINT

Filed 19.....

..... Clerk

MATRANGA, HESS & SULLIVAN
AND ERNEST M. BAILEY

Plaintiff's Attorney

Defendant's Attorney

MAY BE SERVED

Defendant ~~KEX~~ at
COLONIAL INN,
BAY MINETTE, ALABAMA

Received In Office

June 22 1970

Taylor Wilkins, Sheriff

I have executed this summons

this June 22 1970

by leaving a copy with

Daniel Slay

Taylor Wilkins, Sheriff

W. G. Keller, Deputy Sheriff